



HEMDAT YAMIM

חֵמְדַּת יָמִימִים

Parashat Hashavua Vayeilech, Tishrei 5, 5786

Harav Shaul Israeli zt"l
Founder and President

One Day

Based on Aroch Siach, Yamim Noraim (Rav Shaul Yisraeli) p. 293

“Hashem called the light day’ (Bereishit 1:5) – this refers to the actions of the righteous; ‘and the darkness He called night’ (ibid.) – this refers to the actions of the wicked ... ‘day one’ (ibid.) – this refers to the one day Hashem gave them. What day is that? Yom Kippur.” (Bereishit Rabba 3:8).

Rosh Hashana and Yom Kippur are known as the “The Fearful Days,” but the Rabbis also define them as days of light and salvation. They say “‘My light’ (Tehillim 27:1) refers to Rosh Hashana; ‘and my salvation’ (ibid.) refers to Yom Kippur” (Vayikra Rabba 21:4).

Certainly, the days are fearful. When one knows he is standing, face-to-face, before the Creator of the world, and that there is nothing forgotten before His throne of glory and nothing is concealed from His “eyes,” he naturally is seized by panic. One can explain his actions with 150 excuses, but he knows this will not work before He who knows man’s thoughts. There are even times when a person may succeed in fooling himself and quiet his conscience with various excuses. There are times he realizes he did something wrong, but he tries to make himself forget it. He may argue to himself – in the final analysis, that which happened is over; why should we dig it up and deal with outdated episodes? However, a person is required to be accountable for all of his actions. It is as if that which relates to the past is not in the past but the present. Actions are brought back to stand before him as if they are occurring now. A bad action is like an accusatory angel, which calls out: “Why would you do such a thing? Woe unto us because of the day of judgment! Woe unto us because of the day of rebuke!”

However, along with the feeling of fear, there is an awakening of regret, which is the “mother of repentance.” While it is impossible to ignore the past, it is very possible to remedy what went wrong in the past. Every evil act can be viewed as a matter of darkness. It clouds your thoughts and overpowers your senses. It even instills a feeling of helplessness, making you feel that it is so strong that you are compelled to follow its dictates. You become like a robot without a will of your own. Actions are dictated to you, and you are not the master of your own decisions.

Suddenly, a ray of light bursts into the dark recesses of the spirit. At first, you try to avoid it and more efficiently keep yourself in the darkness. However, when you do not succeed and the light keeps on flowing in and penetrates deeply, then instead of avoiding it, there is a moment of recuperation and recognition that all we require is to align our actions with that which is appropriate.

It is good that it is impossible for us to ignore our mistakes. Fortunately, there is an “eye that sees” and observes us and a “hand” that guides us and assists us to shake off the dirt and the unseemly. If an act of evil is darkness, at least we know that the one day, Yom Kippur, comes to replace the darkness with light and make everything one unit. This is the “one day” to which the Rabbis referred.

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Ask the Rabbi

by Rav Daniel Mann

What May One Do before *Havdala* after Yom Kippur?

Question: At the end of Yom Kippur, some people are understandably in a hurry to eat, drink or even wash their face. *Havdala*, after *Ma'ariv*, often takes place well after the time Yom Kippur is “out,” and even longer for a woman at home waiting for her husband. What may one do before *Havdala*?

Answer: We will start with the less pressing and less severe matters – the *inuyim* (Yom Kippur prohibitions) of washing, anointing, and shoes. The Magen Avraham (introduction to Orach Chayim 624) permits them before *Havdala*. Several *poskim* (including the Machatzit Hashekel ad loc.; Shulchan Aruch Harav, Orach Chayim 624:15) assume that these are permitted even before any declaration of *Havdala* (i.e., in *Ma'ariv* or “*Baruch Hamavdil* ...”). On the other hand, some are *machmir* even on these *inuyim* before *Havdala* (Eliya Rabba 624:1) and others are inconclusive as to whether at least *Hamavdil* is required (Mishna Berura 624:2). Therefore, there is little reason to not simply say *Hamavdil* first if he did not yet *daven Ma'ariv* or forgot to say *Ata Chonantanu*, and that suffices. This would make it parallel to the requirements before doing *melacha* on *Motzaei Shabbat* (see Shulchan Aruch, OC 299:10).

On *Motzaei Shabbat*, it is forbidden to eat or drink before making *Havdala* (Pesachim 105a; Shulchan Aruch, OC 299:1) because the obligation of *Havdala* is upon him. The same is true regarding *Havdala* after Yom Kippur. To be clear, at least after saying *Hamavdil*, the prohibition is related to the need for *Havdala* rather than an extension of the prohibition of Yom Kippur. Therefore, it is permitted to drink water, as it is on *Motzaei Shabbat* (ibid.). Although it is true that many have the *minhag* not to drink even water on *Motzaei Shabbat*, that is a *chumra* based on mystical reasons (Rama, OC 291:2). This probably does not apply at the end of Yom Kippur, and even if it does, it should not stand in the way of one who is thirsty due to fasting, and considering that low hydration is unhealthy. On the other hand, the *minhag* is to just hold on another few minutes until after *Havdala*. Therefore, one should not drink in front of everyone in *shul*, and several *poskim* are willing to permit drinking water only when there is some special level of need (see Shemirat Shabbat K'hilchata 62:25 (low-level need); Rav Elyashiv, cited in Ashrei Ha'ish III, 21:28 (higher-level need)). Rav SZ Auerbach is also cited (Shemirat Shabbat K'hilchata 62:(59)) as saying that one should drink water after Yom Kippur only after he has done *Havdala* in *davening* or by declaration (see (ibid.) why this is more necessary than on *Motzaei Shabbat*).

Sho'el U'meishiv (III:I:129) says that it is even possible, when important and in private, to drink water during *Ne'ila* which extends past *tzeit hakochavim* (a rare occurrence, especially in Israel). S'dei Chemed (vol. IX., p. 177) is highly skeptical about this possibility but does not fully disprove it.

The halachic situation is slightly different for women. It is unclear whether women are obligated in *Havdala*, even on Shabbat (see Shulchan Aruch and Rama, OC 296:8). Therefore, there is logic to claim that we can be more lenient on women's eating before *Havdala* after Yom Kippur (see Chayei Halevi III:43). Yet, *poskim* are reluctant to allow this because there is danger to the lives of those who eat before *Havdala* without justification (see Pesachim 105a; Piskei Teshuvot 299:1). Usually women, especially Ashkenazim women, avoid making *Havdala* themselves due to the doubt whether they are obligated in it (Rama ibid.), and it is possible that this is even more recommended after Yom Kippur when it is not also *Motzaei Shabbat* (Mateh Ephrayim 624:7). Nevertheless, *poskim* recommend that a woman who is hungry while waiting for her husband to come home after Yom Kippur should feel free to make *Havdala* and then eat (Shut Shevet Halevi III:43; Shemirat Shabbat K'hilchata 62:(86)).

“Behind the Scenes” Zoom shiur

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Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

The Ethics of the Torah

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 558

Mussar (ethics) is a measuring stick to determine good and evil. It is accepted in philosophy that ethical determinations are based on people's feelings and inclinations, i.e., human conscience. According to the Torah, it is based on the example of Hashem, as finds expression in the Thirteen Attributes of [Hashem's] Mercy.

The ways of Hashem served as a guide for Avraham, before the Torah was given (Bereishit 18:19), and it is the foundation stone of all the *mitzvot* of the Torah, "which are included in His actions" (Moreh Nevuchim 1:54). The general approach of imitatio dei (to imitate our Maker) finds expression in the *mitzva* to "go in all His ways" (Devarim 10:12), which *Chazal* tell us, means to cling to His attributes (Sota 14a).

These conclusions teach us: 1. The rules of ethics are permanent and immutable; 2. They do not arise from a need to deal with human frailty and tendencies, in which a person's likes and dislikes are important. 3. They are based not on feelings, but on justice and absolute truth.

The relationship in the Thirteen Attributes between the elements of mercy and the elements of punishment (12 to 1) demonstrate that "the world is built on kindness" (Tehillim 89:3). Hashem's attribute of strict judgment is intended to preserve the foundation of the world so that it will not get swallowed up by giving in to evil, which is liable to take control, if steps to curb it will not be imposed.

In this way, justice protects society from all deterioration and deviation. This is also our understanding of *mitzvot*, which require a person to discipline himself and firmly rule over his inclinations. Laxness and concession to the wicked and to evil actually aid them to take over and uproot the foundation of kindness, and it is the latter that must build the world.

The expectation that man "imitate" the divine is very ambitious. It goes beyond the accepted attribute of fairness, which is: "that which is mine is mine, and that which is yours is yours." The world was not built on the latter, for if so, the world would not have to be created, since everything is His and from Him.

The *mitzva* to "love your counterpart as yourself" (Vayikra 19:18) means that one should not "love others in a measured way" (Ramban ad loc.) "as everything can go directly from him to his friend without delay, without holding back for himself even like the width of a hair" (Rav Yeruchan of Mir). "That which is mine is yours, and that which is yours is yours" is the real approach to one's counterpart, no matter who, and this is the lesson of the *pasuk* "to cleave to Him" (Devarim 11:22).

Since this idea obligates everyone, we see that the purpose of giving is giving itself. "This is truly the form of man ... if man lives for himself ... and withholds everything for himself, this is the opposite of the way he was created" (Rav Yeruchan of Mir). This is the way Hashem created the world, as this is the trait embedded in man since he was created in Hashem's form.

This also explains the obligation to be holy, in the context of intergender relations. When one's physical enjoyment is only for himself, this causes *kritut* (being cut off from the world). It does not matter whether it is for *mitzvot* between people or in relation to Hashem. Everything is focused on a single goal – uncovering man's true form.

Just as the purpose of justice is to serve kindness, so too the purpose of kindness is justice, since its source is in divine truth, which does not stem from emotions. It is incorrect to claim that in the hierarchy of values, justice is on a lower level than love and kindness or that the two are on different planes. Rather, they are both on the same level – it is a matter of "This is what Hashem wanted" (see Moreh Nevuchim 50:13) or "So did His wisdom decree."

We daven for a complete and speedy *refuah* for:

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P'ninat Mishpat

Smoking Rights in a Rental? – part I

(based on ruling 85076 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) rented an apartment (=apt) from the plaintiff (=pl) for 2,400 NIS a month, without special stipulations. The downstairs neighbor (=dn), a former marijuana user, who also rents from pl, complained about def's smoking cannabis, as the smell penetrated into his apartment. Pl warned def that unless she stopped smoking at apt, she would have to leave. Def relented and left apt after 5 months. Pl demands that def pay an additional three months rental, as stipulated in the contract. Def argues that since she needs to use cannabis for a medical need, it is unreasonable to forbid her to use it at apt, and pl's conviction to remove her if she continued effectively ended their contract. The two also disagreed whether to count the three months from when def informed pl when she planned to leave, and when each of these stages occurred. Both sides wanted only one hearing and were unresponsive to beit din's attempts to verify their claims. Def admitted she had neither a certificate to allow smoking cannabis nor medical records of conditions that necessitated it.

Ruling: A guideline of our *beit din* is that when we are unable to ascertain all the information necessary to rule, we usually rule based on compromise (based on Shulchan Aruch, Choshen Mishpat 12:5). In this case, in which neither side provided all the information it could have but asked *beit din* to expedite a ruling based on the information *beit din* possessed, it behooves us more than usual to rule based on compromise that resembles a likely ruling, incorporating the unknown points as different levels of doubt.

According to a majority of *dayanim*, the main question is whether pl had a right to demand def to not smoke cannabis. It is illegal in Israel to use cannabis without a certificate. However, it is now not a crime but a civil violation, with the maximum punishment being a modest fine; it is also very common for people to use cannabis without a certificate, and given the time and effort required to get one, upstanding people use it medically without one. A person cannot demand the right to do something that is illegal, especially in a case like this where it negatively affects others, as def admits. Still, though, if we knew that def had a serious medical need with no good alternatives, she would have the right to smoke the cannabis at apt in a case like this in which she was not told in advance she must not do so. While pl has no knowledge to refute def's claim that she needs to use cannabis, he and *beit din* are not expected to accept def's claim that she needed it and lacked reasonable alternatives.

Another point is that def mentioned in passing that dn told her that he had made a condition with pl that pl would not rent the apartment to someone who smoked cannabis. This would put blame on pl for not ascertaining def's practices. Pl neither confirmed nor denied this claim, and def brought no corroboration from dn nor details. Therefore, it is another point of doubt, and an example of the sides not providing proofs or even clear claims on significant matters.

We will continue next time with other elements of the case.

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